



## **CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE**

**DATE/TIME:**     **Monday, September 15, 2008  
7:00 p.m.**

**LOCATION:**     **Police Department Auditorium  
870 Santa Barbara Drive**

### Roll Call

1. Minutes of July 21, 2008 (*draft minutes attached*)
2. Committee Recommendation on Appointments to EQAC (*attachment*)  
Environmental Expertise: Michael Alti
3. Analysis of Sample Comments and Responses on Draft EIRs (*attached*)
4. Task Force on Green Development Representatives' Report
5. Coastal/Bay Water Quality Committee Representatives' Report
6. Economic Development Committee Representative's Report
7. Report from Staff on Current Projects
8. Public Comments
9. Future Agenda Items
10. Adjournment

**NEXT MEETING DATE:**                     **October 20, 2008**

## AGENDA

\*Attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Once there, click on ***City Council***, then scroll to and click on ***Agendas and Minutes*** then scroll to and click on ***Environmental Quality Affairs***. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2<sup>nd</sup> Floor.



## CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

### DRAFT MINUTES 7-21-08

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, July 21, 2008.**

**Members Present:**

X	Nancy Gardner, Council Member	X	Sandra Haskell
X	Michael Henn, Council Member	E	Barry Allen
E	Bruce Asper	E	Kristine Adams
X	Dolores Otting, Vice Chair	E	Susan Knox
E	Kimberly Jameson	X	Arlene Greer
X	Kevin Kelly	E	Timothy Stoaks
X	Laura Dietz	E	Ray Halowski
X	Kenneth Drellishak, Chair	X	Barbara Thibault
E	Laura Curran	X	Merritt Van Sant
X	Michael Smith	X	Robert Rush
X	Michael Pascale		

**Staff Representatives:**

**Guests:**

X	Sharon Wood, Assistant City Manager	
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Chairperson Ken Drellishak called the meeting to order at 7:11 p.m.

- Minutes of June 16, 2008

Arlene Greer moved to approve the minutes, with amendments adding information regarding the Task Force on Green Development and Coastal/Bay Water Quality Committees' reports. Sandra Haskell seconded the motion.

**Motion passed unanimously**

- Report from subcommittee on DEIR for San Diego Creek Channel (Upper Newport Bay to I-405) Programmatic Operations and Maintenance Project and review and approval of comments

Chairperson Drellishak provided an overview of the project and the location of significant information in the DEIR and Appendix, especially the Operations and Maintenance Manual. Dolores Otting moved approval of the comments as amended, and Merritt Van Sant seconded the motion.

**Motion passed unanimously**

3. Task Force on Green Development Representative's Report

Council member Gardner distributed minutes of the last meeting.

4. Coastal/Bay Water Quality Committee Representative's Report

None

5. Economic Development Committee Representative's Report

Chairperson Drellishak reported that the EDC had received a presentation on the City's traffic signal synchronization program.

6. Report from Staff on Current Projects

Sharon Wood reported on the status of code enforcement at the corner of Coast Highway and Dover Drive, and provided the status of the following projects: AERIE, Hyatt Regency, and Santa Barbara Condominiums.

7. Public Comments

Dolores Otting announced that she will be replaced on EQAC, and that it has been a pleasure for her to work with the Committee.

8. Future Agenda Items

September:

- Recommendation to appoint Dolores Otting to the Community Association vacancy
- Training on comments and responses on environmental documents

Future:

- AQMD speaker on air quality impact analysis

9. Adjournment

Chair Drellishak adjourned the meeting at 8:55 p.m.

Submit by Email

Print Form

# APPLICATION FOR APPOINTIVE POSITION

FOR OFFICE USE ONLY

Residence District No. 3Verified by lt

## CITY OF NEWPORT BEACH

3300 Newport Boulevard  
Newport Beach, CA 92663  
City Clerk (949) 644-3005  
Fax (949) 644-3039

**DIRECTIONS:** One application can be used for all the appointive positions you are applying for. Applications should be filled out completely so that the City Council may fully evaluate your qualifications. It is the responsibility of the applicant to familiarize themselves with the duties and responsibilities of the position(s) applied for. Detailed information outlining the responsibilities of the positions can be obtained from the City Clerk's office or on the City's website: [www.city.newport-beach.ca.us](http://www.city.newport-beach.ca.us) (General Info/Citizen Participation). Applications will be kept on file for two years for the position(s) applied for. If you are not selected for appointment during that period of time, it will be necessary for you to re-submit an application if you are still interested in being considered. **NOTICE:** Section 702 of the City Charter requires that members of Boards or Commissions appointed by the City Council shall be from the qualified electors of the City. This document is a public record and may be posted on the internet.

NAME OF BOARD, COMMISSION OR COMMITTEE: Environmental Quality Affairs Citizens Advisory Committee

Name: Alti

(Last)

Michael

(First)

Joseph

(Middle)

Residence Address (required): 3 Serena Court

Zip Code: 92663

How long have you lived in Newport Beach?

4.5 years

Home Phone:

631-2075

Business Address: 2030 Main Street, Suite 1200

Business Phone:

851-7476

Irvine, California 92614

Email Address:

mjalti@yahoo.com

Have you ever been convicted of any crime or violation of any law or statute other than minor traffic violations?

☒ NO ☐ YES (If yes, attach separate sheet with explanation)

Name and Location of Colleges/ Universities Attended	Major	Degree	Last Year Attended
University of California, Los Angeles	Law	J.D.	2001
University of California, Los Angeles	Business Economics	B.A.	1998

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Prior or Current Civic Experience (include membership in professional, charity or community organization)	Office Held (if any)	Dates of Membership
Lebanese American Foundation (Lebanese American Prof Assoc)	Board Member	May 2007 to present
Maronite Outreach (Christian Charity Organization)	Media Coordinator	2005 to present

**Occupational History.** Begin with your present or most recent position. List all positions separately held for the last five years.

Firm or Organization	Type of Business	Title	Dates of Employment
Jackson, DeMarco, Tidus & Peckenpaugh	Law Firm	Attorney	5/04 to present
McCormick, Kidman & Behrens	Law Firm	Attorney	1/03 to 5/04

**References.** Include names of at least two residents of Newport Beach who are not officially connected with the City.

1. Name  Address  Phone No.
2. Name  Address  Phone No.

Summarize why you wish to serve the City of Newport Beach on a board, commission or committee. Include any special qualifications you have which are particularly appropriate to the position for which you are applying.

I have lived in Newport Beach for nearly five years and am a proud resident of this great city. I would like to become more active in the City and contribute my skills and experience to the community. I am a land use attorney with significant experience in environmental law, particularly with respect to the California Environmental Quality Act. My land use experience includes reviewing, revising, and challenging EIRs, Negative Declarations, and other environmental review documents. With my solid understanding of the CEQA process and what constitutes an adequate environmental review document, I believe I can contribute greatly to the City's Environmental Quality Affairs Citizens Advisory Committee.

I certify that all statements made on this application are true and correct to the best of my knowledge. I have read and understand the duties and responsibilities of the particular position(s) that I am applying for and authorize the release of this information on the internet.

[BOX MUST BE CHECKED IF SUBMITTING ELECTRONICALLY]



Signature

Date

## ANALYSIS OF DEIR COMMENTS AND RESPONSES

### GOOD EXAMPLES

#### Comments

- |  |     |
|--|-----|
| 4. Page ES-7 and 3C-11 - Please revise the language describing mitigation measure number M-3C.2 to clearly identify the proposed improvements at the intersection of MacArthur Boulevard and Jamboree Road. As it currently reads, it is difficult to understand what improvements are being proposed.   | 4-4 |
| 5. Page ES-9 - Revise mitigation measure M-3D.12 to ensure that construction-related traffic on the City of Irvine streets will be addressed and mitigated in the EIR. The City is requesting that the construction traffic hours be limited to 9:00 a.m. to 3:00 p.m. and 7:00 p.m. to 5:00 a.m. <u>only</u> . The City does not permit construction traffic during the peak hours. | 4-5 |

#### Responses

- 4-4 Mitigation Measure M-3C.2 calls for the addition of a third westbound left-turn lane and a fourth eastbound through lane at the intersection of Jamboree Road and MacArthur Boulevard. Please note that Jamboree Road is considered to be the east-west street, and MacArthur Boulevard is considered to be the north-south street.
- 4-5 The City of Irvine, via e-mail of February 1, 2005 from Diane Nguyen, agreed to the following. Mitigation Measure M-3D.12 is revised to add the following:
- Construction traffic hours will be prohibited as follows: 7:00 p.m. to 7:00 a.m. Monday through Friday; 6:00 p.m. to 9:00 p.m. Saturday; all day Sunday and federal holidays. All vehicles involved with material deliveries, loading or transfer of materials, equipment service, and maintenance of any devices for or within any construction project shall not operate on City of Irvine streets during prohibited hours unless a waiver has been granted by the City.

#### Staff Analysis

Comments ask for specific revisions to mitigation measures for clarity and accuracy, and to ensure that impacts in Irvine will be mitigated. These are relevant environmental issues, and the responder can easily understand what's needed.



## **Comment**

7. Tables 2-2 & 2-3 – Clarify whether the R.D. Olsen project at 2801 Main Street (340 dwelling units with 6,500 s.f. of retail) was considered in the cumulative impacts to the project. It is not listed under the Tables 2-2 and 2-3 for the summary of pending and approved projects. For your information, the conditional use permit was approved by the Planning Commission on October 21, 2004.

4-7

## **Response**

- 4-7 The R. D. Olsen project at 2801 Main Street (340 dwelling units, 6,500 sf of retail) was inadvertently omitted from Table 2-3; it was however assumed in the traffic analysis (see Table 2, Page 9 of the traffic report). It is hereby added to Table 2-3 of the EIR.

## **Staff Analysis**

Comment notes information omitted from a table in the EIR, and helps responder correct the problem.

## **Comment**

At the Fletcher Jones dealership, vehicles waiting to be serviced are dropped off on Bayview Way. To ensure that vehicles do not stack onto Dove Street at the new Lexus dealership, the Final EIR should include a stacking and queuing study to determine if the staging areas are large enough to accommodate the volume of customers at peak drop off hours.

2-22

## **Response**

- 2-22 The Lexus site will provide three dedicated inbound queuing lanes, each more than 350 feet in length, (storage capacity for approximately 40 vehicles) for customers arriving for service. If the number of incoming vehicles exceeds the capacity of the three dedicated lanes, the center lane and one of the outbound lanes on the service entrance can be temporarily used for queuing inbound customer vehicles until the queue dissipates. This would allow for a total of approximately 60 additional vehicles.

Once the arriving vehicles are processed, they will be taken into the service building. The service building will accommodate 160 vehicles being serviced, waiting to be serviced, and already serviced. After being serviced, cars will be taken to the carwash area, which will accommodate an additional 26 vehicles. The layout of the Lexus site and the generous vehicle stacking and staging areas have been designed specifically to avoid the queuing and overflow problems experienced at other dealerships.



## **Staff Analysis**

Comment asks for additional analysis of potential traffic impact; response provides greater detail than was included in DEIR.

## **Comment**

While the DEIR calls out nine areas for specific discussion, the DEIR also indicates that “other areas” may be subject to land use changes, but changes in these areas are not quantified. Further, although a table is presented which quantifies changes for the nine specific areas, the sum of the parts adds up to more development than the total presented in the DEIR. For example, Table 3-3 indicates that multi-family residential will increase from 30,159 units citywide under the existing general plan to 33,992 units citywide under the proposed plan, an increase of 3,833 units. Yet, when increases in each of the nine individual areas are added together, the total increase in multi-family units would be 5,796, not including any changes in allowable units elsewhere in the city.

Similarly, Table 3-3 shows that allowable office development city wide will decrease by 1.7 million square feet, dropping from 14,576, 930 square feet to 12,867,500 square feet. This is important because the DEIR indicates elsewhere that some impacts created by the increase in residential development would be offset by decreases in office use. However, when the changes in office development presented for each of the nine areas are added together, the decrease in office use totals only 1.4 million square feet.

## **Response**

### **SA-7**

The increase in multi-family dwelling units in subareas, shown in Table 3-3, is higher than the increase citywide due to reductions in the number of dwelling units allowed outside the subareas in the proposed General Plan Update. The largest component of this difference is the correction of a coding error, which overstated the multi-family residential potential in the Newport North area by over 1,300 units for the existing General Plan. Reductions also occur because the proposed General Plan Update reflects the actual number of units developed at One Ford Road and Sailhouse, nearly 250 fewer than allowed in the existing General Plan. Finally, there are reductions in the number of units allowed on Lido Isle and at Bayside Village in the proposed General Plan Update. The difference of 300,000 square feet in office development between the subarea and citywide numbers is accounted for by the proposed land use change from Administrative, Professional and Financial to Mixed Use for the area along Dover Drive described on page 3-17 of the Draft EIR. Table 3-3 has been revised to include a column showing land use changes for the remainder of the City, which reflects the changes proposed in the “other land use areas” described on page 3-17. Table 3-3 is reprinted here.

## **Staff Analysis**

Comment requests clarification of information in the DEIR that is confusing, and essential to analysis of environmental impacts. Response explains and provides revisions to the DEIR table in question to complete the picture.

## **Comment**

Clarification is also requested in the Final EIR regarding which intersection improvements are technically and legally feasible. We are specifically concerned regarding the proposed improvements to the University/Irvine intersection. Although a series of long range improvements are identified (see Tables 6 and 5-10 in the Traffic Study), the DEIR does not discuss the feasibility of the various improvements. Many intersections have multiple alternatives, each of which seems to be ruled out. For these reasons, we believe that the traffic study and the DEIR's traffic analysis do not accurately reflect traffic conditions that are expected to occur in the future and do not accurately describe conditions that support a finding that all intersections will operate at LOS D or better. We suggest that the DEIR be revised to clearly identify which long range improvements have been determined by the City to be physically and legally feasible and therefore incorporated into the proposed Circulation Element and which of the improvements have been rejected because of environmental, right-of-way, or community issues.

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## **Response**

**N-20**

Page 3-18; Table 3-4, identifies transportation improvements under the proposed General Plan Update. Every intersection improvement recommended in either Exhibit CE-3 of the General Plan Circulation Element or Table ES-9 of the General Plan Transportation Study has been reviewed by the project team, including the City Traffic Engineer, and been deemed most feasible of the evaluated improvements. Infeasible improvements have been discussed and removed from further consideration, resulting in the revised LOS standard (LOS E) at certain City intersections. It is also recognized, however, that future conditions may vary from the projections in the traffic study. Therefore, the recommended Circulation Element policies specifically allow for alternate improvements, as long as the resulting LOS conforms to the recommended City standards.

## **Staff Analysis**

Comment raises a question about the feasibility of mitigation measures; response explains how feasibility was analyzed.



## LESS EFFECTIVE EXAMPLES

### Comment

Impact 3.4-1 (page 3.4-29) states that "Focused surveys for special status plants could not be conducted in spring/summer 2007 due to drought conditions; therefore it is unknown which, if any, special status plant species occur on the project site." The report then lists 10 potential species that could potentially occur at the project site. However, this area has been subject of monitoring for many years. Are other reports available on species in the location?

### Mitigation Measure Included in DEIR

#### **Mitigation Measure**

##### **MM 3.4-1. Pre-maintenance Special-Status Plant Survey**

A pre-maintenance special status plant survey will be conducted by the Project Biologist during the peak flowering period (to be determined by monitoring a reference population) for the nine special-status plant species potentially significantly impacted by the proposed project (i.e., salt marsh bird's beak, intermediate mariposa lily, Coulter's saltbush, South Coast saltscall, Davidson's saltscall, southern tarplant, mud nama, coast woolly-heads, and estuary seablite). The special-status plant surveys will follow guidelines developed by CNPS (Tibor 2001). If any of these species are located within the impact area, the impact would be considered potentially significant, depending on the status of the species and the number of individuals observed. If practicable, the project impact boundary will be adjusted to avoid impacts on this species. CNPS does not support any mitigation for special-status plants other than avoidance. If the impact is determined to be significant, and avoidance is not possible, a strategy will be developed based on guidelines developed in the CEQA Guidelines (Tibor 2001):

1. avoiding the impact on the species to the extent possible through project planning;
2. minimizing impacts;
3. rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
4. reducing or eliminating the impact over time by preservation and maintenance operations during the life of the project; or
5. compensating for the impact by replacing or providing suitable resources or environments.

#### **Staff Analysis**

Shows need to review entire analysis and mitigation measures. In this case, the mitigation measure -- to do pre-maintenance surveys and follow CEQA Guidelines if avoidance is not possible -- substitutes for surveys that could not be done as part of DEIR preparation.

## Comments

The Executive Summary provides a project overview and also states that there are two alternatives discussed in the DEIR, the No Project Alternative and the Reduced Project Alternative. However, it is not until the end of the document that the DEIR states that the Reduced Project Alternative is the environmentally superior alternative, and "(f)or this reason the Reduced Project Alternative is now the preferred alternative." DEIR P. 4-6

2-1

The fact that the Reduced Project Alternative is now the preferred alternative makes much of the analysis in the DEIR superfluous. However, we make the following comments on the DEIR in the hopes of improving the Final EIR and the proposed Project.

This chapter provides the proposed Project background and a description of the proposed Project. With the exception of the site location, environmental setting and surrounding land uses, most of the information in this chapter relates to the alternative that has not been determined to be the preferred alternative. The Final EIR should fully analyze the preferred alternative.

2-6

## Responses

- 2-1 There is very little difference between the project discussed throughout the Draft Lexus Newport EIR and the "Reduced Project Alternative". The minor reduction in service bays of 13,000 square feet results in a minor reduction in traffic impacts, however, this reduction would be sufficient to reduce project impacts at the two intersections identified as impacted in the traffic section of the EIR from significant to less than significant (although the alternative would still have a TPO impact that would be mitigated through fairshare participation in funding improvements). All other impacts would be essentially the same or only incrementally reduced.

2-6 See response to comment 1 above.

## Staff Analysis

CEQA requires analysis of the worst case scenario, and requires EIRs to include project alternatives that would reduce impacts. If a reduced alternative is chosen as the project to implement, it is not necessary to revise the EIR.



### **Comment**

Chapter 3C lists the various agency regulations that govern the traffic analysis. The Final EIR should include Measure S among the applicable regulations and discuss whether the General Plan Amendment and additional traffic generated by the proposed Project trigger Measure S regulations.

2-18

### **Response**

2-18 Measure S is not related to physical environmental impacts and is not relevant to this CEQA document. It will be addressed in the Staff Report for this project.

### **Staff Analysis**

Measure S (Charter Section 423) is not a traffic regulation, and it establishes no thresholds for significant environmental impacts. It is a regulation for the approval of General Plan amendments, and sets thresholds for when a vote of the people is required.

### **Comment**

- Finally, why do the aesthetics and visual quality of the neighborhood mandate a minimum parcel size in the Airport Area, but not on the West Newport Mesa, for instance?

### **Response**

P-8

This is a comment on the Draft General Plan, rather than on the Draft EIR.

### **Staff Analysis**

Comment questions a policy in the Draft General Plan, without raising an environmental issue or impact, rather than commenting on the environmental analysis.

## **Comment**

The use of the word "important" in Policy NR10.10 provides a loophole for a potential developer of the Banning Ranch to avoid habitat replacement if it is not "important." In order to support the conclusion of less than significant impact on biological resources, the word "important" should be deleted and replacement of *any* habitat should be required. (Page 4.3-32)

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## **Response**

### **EQ-20**

The Banning Ranch contains plant species and animal habitats that are not listed by state and/or federal agencies and do not warrant protection. The commenter suggests that "all" habitats should be protected and this is not legally required, nor practical. Policy NR 10.4 requires that "...a site specific survey and analysis prepared by a qualified biologist [be conducted] as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as an ESA." Banning Ranch is designated on Figure NR2 as an "ESA." Further, Policies NR 10.5, NR 10.6, NR 10.7, and NR 10.8 provide for protections of the resources that are considered by state and federal agencies as rare, endangered, or otherwise significant. These policies are supplemented by Land Use Element Policy LU 6.5.6 that requires coordination with state and federal agencies in the "...identification of wetlands and habitats to be preserved and/or restored and those on which development will be permitted," which would occur through the agencies' permitting processes, as well as LU 6.5.4 that establishes criteria for the location and design of development to protect the site's resources.

## **Staff Analysis**

Comment not well thought out. The suggested language could require the protection of habitat that is inappropriate for its location.

## **Comment**

The DEIR states that "LOS D is the threshold for intersection performance" in the City of Newport Beach. Considering the adverse effects of LOS "D," the policy makers and decision-makers may want to know what would be required to bring this "threshold" to some better or more comfortable driving LOS, for example LOS "C." The final EIR should include such an analysis. (Page 4.13-21 and 22)

54

## **Response**

### **EQ-54**

CEQA requires an environmental impact report to analyze the impacts of the project proposed. Other than the requirement to analyze feasible alternatives to the proposed project, the EIR is not required to speculate on a different project description. The commenter proposes different level of service standard than the City has ever considered, or is considering as part of the proposed project, and, therefore, it is not addressed in this EIR.

### **Staff Analysis**

Comment requests information that may be interesting to decision makers, but is not related to determining a significant environmental impact of the project.

### **Comment**

Pg. 3.4-8 How is it shown that the noise was dominated by traffic noise? Since Leq is average over 1 hour, how could persons walking in the park cause a 20-25% overage?

} 25

### **Response**

#### **Response 25**

Observations by Mestre Greve Associates, acoustical consultant to the City for the Hoag Master Plan Update Project, during the measurements showed that traffic noise was the dominant source of noise during the measurements. The comments in the paragraph below Table 3.4-2 on page 3.4-8 of the Draft EIR are descriptions of the sounds that were audible during the measurements. Persons walking through the park did not "cause a 20-25% overage." The Draft EIR states (see page 3.4-8) that "Activities of persons in Sunset View Park, generally walking and talking, also contributed to the noise environment along with insects.... Activities of persons in the park, generally walking and talking, also contributed to the noise environment. A person talking relatively close to the sound level meter caused the maximum measured noise level."

### **Staff Analysis**

Comment misquotes DEIR.

### **Comment**

The report discusses several noise sources that EQAC believes require further analysis, with a focus on mitigation for the benefit of residents adjacent to the property.

} 37

### **Response**

#### **Response 37**

The comment is noted; please refer to the preceding responses to noise-related comments.

### **Staff Analysis**

Comment is vague and does not raise any specific environmental issue or impact, making it impossible to provide a meaningful response.